

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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IN RE MERCK & CO., INC.,  
VYTORIN/ZETIA SECURITIES:  
LITIGATION

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Hon. Dennis M. Cavanaugh

**ORDER**

Civil Action No. 08-2177 (DMC)(JAD)

**DENNIS M. CAVANAUGH, U.S.D.J.**

This matter having come before the Court on the Defendants' Motion for Summary Judgment (ECF No. 216), and the Court having considered the submissions of the parties, and for the reasons stated herein;

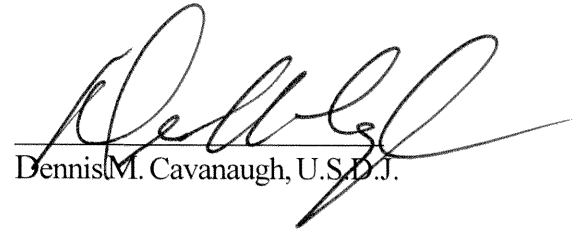
**WHEREAS** Summary judgment is granted only if all probative materials of record, viewed with all inferences in favor of the non-moving party, demonstrate that there is no genuine issue of material fact and that the movant is entitled to judgment as a matter of law. See FED. R. CIV. P. 56(c); Celotex Corp. v. Catrett, 477 U.S. 317, 330 (1986);

**WHEREAS** genuine issues of material fact do exist in this case, including but not necessarily limited to whether Defendants' January 14, 2008 disclosure "cured" the alleged fraud and whether subsequent disclosures revealed further details of the alleged fraud;

**WHEREAS** these disputes present complicated questions of fact, and based on this Court's experience, are the type of disputes best resolved at trial;

IT IS on this 25 day of Sept, 2012;

**ORDERED** that the Motion for Summary Judgment is **denied**



Dennis M. Cavanaugh, U.S.D.J.

Orig.: Clerk  
cc: All Counsel of Record  
Hon. Joseph A. Dickson, U.S.M.J.  
File